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NOT TO BE PUBLISHED IN OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION TWO

Conservatorship of the Person and Estate of CRYSTAL O.	
HUMBOLDT COUNTY PUBLIC GUARDIAN, Petitioner and Respondent, v. CRYSTAL O., Objector and Appellant.	A127369 (Humboldt County Super. Ct. No. PR090288)

INTRODUCTION

Crystal O. appeals from an order appointing a conservator of her person and estate and ordering her civil commitment under the Lanterman-Petris-Short Act. (Welf. & Inst. Code, § 5000 et seq. (LPS Act).)[1] The order followed a jury trial at which the jury unanimously found appellant to be gravely disabled as defined by the Act. Appellant contends: (1) the jury's finding that she was gravely disabled was not supported by substantial evidence that she was unable to provide for her basic personal needs for food, clothing or shelter; and (2) the evidence was insufficient to justify the imposition by the court of special disabilities on her right to drive, enter into contracts, possess firearms, and withhold consent for medical treatment. (§§ 5357, 5358.) We shall affirm.

[1] All statutory references are to the Welfare and Institutions Code, unless otherwise indicated.

BACKGROUND

Dr. Ruby Bayan, a staff psychiatrist at Humboldt County's acute psychiatric facility Sempervirens, is appellant's primary treating psychiatrist. She testified as an expert without objection on November 30 and December 1, 2009. Bayan first met appellant on September 7, 2009, when appellant was put on a 72-hour hold as a danger to herself and others. (§ 5150.) At the time she testified, Bayan had been appellant's attending psychiatrist from that admission to October 8, 2009, and for almost two months since her most recent hospital admission on October 14, 2009 until time of trial. Bayan met with appellant every weekday for 15 to 30 minutes. Bayan reviewed records of appellant's previous hospitalizations and spoke to other medical professionals who had worked with appellant, including appellant's private physician.

Bayan diagnosed appellant as suffering a "schizo-affective disorder," but that diagnosis had not been "fixed." During initial evaluations, because of different presentations, appellant received different diagnoses, including polysubstance abuse and, in 1994, "bipolar with psychotic symptoms." Later, appellant had been hospitalized in Utah with a diagnosis of schizo-affective disorder. According to Bayan, "[i]t became clear during the two [most recent] hospitalizations that [appellant] does meet more of the criteria for schizo-affective disorder than for bipolar with psychotic symptoms. Appellant had been diagnosed with mental illness since 1994. Although she had been able to function in the past, that was no longer the case. Bayan testified unequivocally that, in her opinion, appellant was "gravely disabled" under the standards set by the LPS Act, that appellant was unable to accept voluntary treatment at that time, and that she had no insight into the need for treatment. Bayan testified that when appellant is off medications, she is unable to provide shelter for herself and that her symptoms affect her ability to provide food for herself, as she fears the food is poisoned. Bayan also opined that appellant's symptoms affect her safety in the community and that she is a danger to herself.

Bayan testified that appellant's symptoms include delusions that she is the daughter of Howard Hughes, the "crystal blue persuasion," the "omniscience," and the

"modern day mother of Moses." Appellant also has delusions that people are after her and that the hospital is trying to poison her. Appellant was likely to act on her delusions. For example, six weeks earlier, appellant assaulted a member of the hospital staff, tearing off his shirt, because she believed the staff were after her and attempting to poison her. As a result of her paranoia, during her hospitalization appellant had been refusing to accept food, stating she would not eat it unless it was brought to her by Paul McCartney or country music artist Alan Jackson. Bayan further testified that appellant experiences hallucinations that she calls the good spiritual and the bad spiritual. She is preoccupied with these hallucinations to the point of believing that she is communicating with them using a cell phone. Appellant is disturbed by these hallucinations and has become very angry and out of control, agitated to the point of screaming and shouting while talking to the spirits. As a result of her illness, because her reality testing is severely impaired, her judgment is impaired. Appellant's mood is affected by schizo-affective disorder so that she becomes manic, agitated and grandiose. When she is in her severely manic mood, "she's irritable, she's agitated, threatening, and, therefore, she's not able to get along with other patients."

Appellant had been admitted to Sempervirens several times in the past: in August 1994; again from August 3 to 8, 1995; and from April 18 to 20, 1996. Appellant moved to Utah approximately three years ago. While in Utah, appellant had been hospitalized three times at the University of Utah between March 2008 and January 2009. On one occasion, because of her paranoia that people were after her, including her landlord, appellant vandalized the landlord's car, including writing "red rum," and the letters of her apartment on the hood of the landlord's car by scratching the paint. Another time, hospitalization in Utah resulted when "she left her apartment, went to an area of Utah that was freezing cold, and was found there with nowhere to go, no place to go, and not dressed for that kind of weather."

Following her return to the Bay Area in August or September 2009, appellant was admitted to Sempervirens on a section 5150 hold on September 7, 2009, after her landlord reported her to the police for vandalizing her apartment. The police found burnt

papers inside the apartment by the window, three sickles stuck into the apartment walls, writing covering the walls, and window sills appellant had badly damaged with a hammer. The landlord also reported that appellant was yelling out of the windows and "throwing burning items out of the window." Appellant stated it was better to hammer and sickle some walls than to hurt someone else. Sempervirens staff confirmed that appellant could not return to that apartment after she was released. On admission, appellant was disheveled, but appropriately dressed. A temporary conservatorship was established for appellant, pending hearing on a petition for appointment of a conservator.

Appellant receives monthly Supplemental Security Income (SSI) benefits. As a result of appellant's delusions and fears that people are after her or against her, she claimed that she had millions of dollars. When it was time to help her be placed, she claimed that she did not have any money. She had her money in a post office box that could not be located. She said she did not want the Public Guardian to have any control of her money.

On October 8, 2009, appellant was transferred to a licensed board and care facility on the temporary conservatorship. She had agreed with Bayan that she would be compliant with her medication and the treatment recommendation. However, appellant stopped taking her medication and became agitated and threatening, to the point that other residents were scared and disturbed. She was readmitted to Sempervirens on October 14, 2009, where she remained.

Appellant has an adult son and a daughter, but neither was able to assist appellant. Bayan stated she knew of no one willing to assist appellant when she is symptomatic. Appellant told Bayan that she does not have a mental illness. Bayan testified that appellant had no insight into the symptoms of her illness or into the need for treatment. Every time she had been discharged from the hospital, both in Humboldt County and also in Utah, "she readily discontinues all her medication."

Bayan testified at length about the medications appellant was taking and about working with appellant to change her medications. Bayan stated that at this point appellant was taking the prescribed medications and her condition had improved in the

last three weeks. Appellant had requested being taken off the antipsychotic drug Xyprexia, because of weight gain, and had been successfully taken off that drug. She requested being taken off mood stabilizer Depakote, because of weight gain and hair loss, and was significantly decreased in dosage with a plan of taking her off that medication once the new medication reached a therapeutic range. The recommendations from all the doctors, from Sempervirens and in Utah, were consistent with her current treatment. Sempervirens had tried to accommodate appellant's concerns about side effects. However, while appellant was in the hospital under close observation, no side effects were noticed.

Bayan was aware that appellant had rented an apartment in Eureka from 2000 until 2006, and that her landlord had written in 2007 that she was an excellent tenant and that he would be willing to rent to her again. This letter did not impact Bayan's opinion that appellant could not provide shelter for herself at the time of trial, because at the time covered by the letter, appellant did not have the psychiatric symptoms. Bayan anticipated that if appellant cooperated with treatment, she could return to the level of functioning she had in 2007. Of all the patients who come into Sempervirens, Bayan refers only one to two percent for conservatorship.

Crystene Jensen, a friend of appellant for about 10 years, testified that she had visited appellant approximately once a week before appellant went to Utah and had frequent contact with appellant upon her return. Jensen continued to have contact with appellant by phone almost daily during appellant's confinement at Sempervirens. Jensen noticed a change in appellant's behavior on her return from Utah. Jensen does not always understand what appellant is saying. Appellant maintains that "they're trying to drug her at Sempervirens and make her crazy; that as soon as she gets out, she's not taking any more medication; and the medication that she wants, they won't give it to her." Jensen has never seen appellant threaten anyone and has found her to be well-dressed and well-groomed, has seen her purchase food and eat food, and has observed that appellant has a normal appetite.

In addition to her own testimony, appellant presented testimony from her long-time friend Tina Blake: that appellant had lived with Blake three times during the 17 years they had known each other, that appellant stayed on Blake's couch immediately after her return from Utah, had paid rent, helped with groceries, cooked for herself, shopped, cleaned her own clothes, and was compulsive about being clean. Appellant always had clothes that were neat and clean and was able to manage her transportation. Appellant has always been able to take care of herself on her own. Although appellant hears voices, "she's always dealt with 'em and took real good care of herself." Blake speaks with appellant by telephone every day and believes she is still able to take care of her needs such as food, clothing and shelter. Blake observed that appellant's psychiatric symptoms were worse on her return from Utah, that she was more agitated and heard more voices. Blake could not offer an opinion as to whether it was beneficial for appellant to be on medications, but did recommend counseling. Blake works and was not home all the time appellant was staying with her. She observed appellant standing in the kitchen and talking to herself and arguing with herself. When appellant began to get loud, she would respond to Blake's telling her to calm down. Blake could not offer appellant a place to stay at this time, but offered to assist appellant in managing her affairs and in obtaining an appropriate residence.

Wayne Dukey, a friend and neighbor who had known appellant from 1999 until three years ago, testified he had never seen her inappropriately dressed, and had never seen her suffer from hunger or unable to locate shelter. He had seen her five or 10 times since her return from Utah, and believes that appellant can pay rent and buy food. He opined that although she has to deal with her mental health issues, she can do so by going to Sempervirens every day.

Appellant testified on her own behalf that she was Howard Hughes's daughter and had the "blood type to prove it." She suggested that a mailman discharged from the jury was involved in a conspiracy to disrupt her mail service. She said she had tried to reach Alan Jackson through the mail and her letters came back within six days. She insisted the letters had not reached their destination because "he would have known it was me writin'

him and he would have came [*sic*]." Appellant also testified that she was perfectly capable of taking care of herself. She admitted being mentally ill, because she was a little bit manic, but she considered manic to be "emotional. You know. You have your ups and downs, and you have your mediums." She was willing to take some medicine, but preferred counseling, although not from Sempervirens. She said she was fine with her current medications, but that "if she keeps upping and if she doesn't finish taking me off the Depakote, then we're going to have some head-to-head, like bumpin' heads again like we did when she had me on" other medication that appellant contended caused tremors or convulsions. Appellant did not know what the symptoms were for schizo-affective disorder, believing one was "ineffectiveness" and "they start something that they don't finish." She denied saying that she would only accept food from Paul McCartney or Alan Jackson, saying that she had been eating for 49 years. She denied being paranoid and said she was not worried about anyone poisoning her. She then launched into testimony about a book she claimed to have written in 1994 that was used by singers Paul McCartney and Alan Jackson to inspire "African Relief." She did not want to return to the board and care facility, because she did not agree to paying $981 and she would prefer to rent a place for $300, to cook and clean her clothes with bleach, buy new clothes rather than used, and have her tobacco needs met.

Asked about the allegations of vandalizing her landlord's car in Utah, appellant responded with a rambling explanation involving a text message from the maintenance man's phone that she believed was a "set up." She continued: "[T]hey didn't mention the fact that I broke his windshield and that's why I was arrested. I wasn't arrested for the 'red rum.' And they kept my deposit on my apartment for the red—for the car instead of the apartment, which is illegal. And I have several—I have several lawsuits against property managers here, which is why I was petitioning a case in front of you before. Okay?" She continued, "They did something. They put something in my Kool-Aid that made me swell up and get stiff as a board and eventually I went to the hospital for it."

The jury was instructed that, to succeed in its claim and to place appellant in a conservatorship, the Public Guardian must prove beyond a reasonable doubt that

appellant "has a mental disorder"; that she "is gravely disabled as a result of the mental disorder"; and that she "is unwilling or unable voluntarily to accept meaningful treatment." The jury was also instructed that "[t]he term 'gravely disabled' means that a person is presently unable to provide for his or her basic needs for food, clothing, or shelter because of a mental disorder. [¶] Bizarre or eccentric behavior are not enough by themselves to find that conservatee is gravely disabled. Crystal [O.] must be unable to provide for the basic needs of food, clothing, or shelter because of a mental disorder."

The jury unanimously found appellant gravely disabled beyond a reasonable doubt. Following the jury verdict, the court appointed a mental health conservator for appellant, with powers to place her without her consent for psychiatric treatment and to order routine medical treatment unrelated to the disability for which she was conserved. The court also imposed "special disabilities" under the LPS Act, denying her the privilege of possessing a license to operate a motor vehicle, the right to enter into contracts, and the right to possess any firearm or other deadly weapon. (§§ 5357, 5358.) This timely appeal followed. The conservatorship expires on December 8, 2010, one year from the date of the order. (§ 5361.) We therefore granted appellant's request to expedite the appeal.

DISCUSSION

I. LPS Conservatorship

The LPS Act governs involuntary treatment of the mentally ill in California. Under the Act, a conservatorship may be established for any person who is gravely disabled as a result of a mental disorder. (§ 5350.) "Gravely disabled" is defined as: "A condition in which a person, as a result of a mental disorder, is unable to provide for his or her basic personal needs for food, clothing or shelter." (§ 5008, subd. (h)(1)(A).) "Grave disability must be proven beyond a reasonable doubt to establish and to renew LPS conservatorships. [Citations.] On review, we apply the substantial evidence test to determine whether the record supports a finding of grave disability. [Citation.] The testimony of a single witness is sufficient to support the trial court's finding. [Citations.]" (*Conservatorship of Johnson* (1991) 235 Cal.App.3d 693, 696-697.) "On

appeal 'the court must review the whole record in the light most favorable to the judgment below . . . .' [Citations.] Substantial evidence includes circumstantial evidence and the reasonable inferences flowing therefrom. [Citation.]" (*Conservatorship of Alfred W.* (1989) 206 Cal.App.3d 1572, 1577

II. Substantial Evidence of Grave Disability

On appeal, appellant does not dispute that she suffers from a mental disorder. However, she contends that the evidence is insufficient to support the finding that she was gravely disabled as a result, in that she was unable to provide for her basic personal needs for food, clothing or shelter. She further contends that there was no showing that the inability to provide for these basic personal needs was so serious as to present a physical danger, and that there was no evidence that any physical danger was due to appellant's lack of volitional capacity to control her behavior.

A. Bayan's testimony furnished substantial evidence supporting the jury's finding that appellant was "gravely disabled." According to Bayan, appellant suffers from substantial and debilitating delusions and hallucinations. These have led, among other things, to her being unable to maintain shelter for herself. Appellant's repeated animosity toward her landlords and her inability to provide for shelter for herself were evidenced by her behavior setting fire inside her previous apartment, yelling while throwing burning items out the window, taking a hammer to the window sills and three sickles to the walls, her vandalizing her Utah landlord's car and breaking the car window, resulting in her arrest, and her most recent inability to stay in the board and care facility where she became extremely agitated, threatening and loud, and frightened other residents. Moreover, the incident in Utah, where appellant left her apartment and was found wandering in an area where it was freezing cold, without adequate clothing and with nowhere to go, also implicates not only her ability to clothe herself appropriately, but also her ability to provide herself with adequate shelter. Taken as a whole, this evidence provides ample support for Bayan's opinion that appellant was unable to provide for her

basic need of shelter due to her mental disorder.[2] That appellant and her friends testified to the contrary did not undermine Bayan's opinion, particularly as the testimony of Blake and Dukey were primarily based on appellant's behavior before her move to Utah. We agree with appellant that shelter does not require having an apartment or a house, and that homelessness, in and of itself, is *not* a sufficient ground for finding one gravely disabled. The necessary connection is that appellant's inability to provide for her basic need for shelter is the result of her mental disorder.

Appellant relies upon *Conservatorship of Smith* (1986) 187 Cal.App.3d 903 (*Smith*), to support her claim of lack of substantial evidence to support the grave disability finding. Although superficially similar, *Smith* is distinguishable in several critical respects. Smith was diagnosed as having a paranoid delusion. That mental disorder led her to maintain an around-the-clock vigil outside a particular church and occasionally to disturb services. (*Id.* at pp. 906, 907.) On occasions when her behavior was particularly disruptive, Smith was arrested and taken to jail or to a nearby mental hospital. (*Id.* at p. 906.) At trial, the psychiatrist testifying for the petitioner testified that Smith was " 'gravely disabled' because her mental disorder caused behavior which brought her into conflict with the community. However, the psychiatrist also concluded that her cognitive intellect and most of her personality was intact and, *despite the disorder, she could feed and clothe herself and provide for her own place to live.*" (*Id.* at p. 907, italics added.) The psychiatrist also testified that Smith "had once gone AWOL from the facility, stayed at her aunt's house and then returned to the church." (*Ibid.*) There was also testimony that "food and money had been given to [Smith] over the past year, one time because of her 'poor physical condition.' " (*Ibid.*) The Court of Appeal explained that "in order to establish that a person is 'gravely disabled,' the evidence adduced must support an objective finding that the person, due to mental disorder, is

[2] Appellant maintains that the primary evidence presented was of danger to others, not grave disability. We think the record shows both. The evidence of appellant's explosive behavior and inappropriate conduct was not presented as evidence that she was a danger to others, but as evidence that she was unable to care for herself.

incapacitated or rendered unable to carry out the transactions necessary for survival or otherwise provide for her basic needs of food, clothing, or shelter." (*Id.* at p. 909.) The appellate court concluded that there was insufficient evidence to prove appellant was gravely disabled where the record revealed that her psychiatrist believed that Smith *was* able to obtain food, clothing and shelter, and that Smith regularly received offers of help and did sometimes accept assistance. (*Id.* at p. 910.) Further, the court expressly acknowledged that it was *not* saying "that from a more complete record [Smith] could not be adjudicated 'gravely disabled.' However, the limited testimony adduced at trial compels our conclusion today." (*Ibid.*) In marked contrast to *Smith,* appellant's treating psychiatrist *did testify* at length that appellant's mental disorder rendered her unable to provide herself shelter. Bayan explained the basis for her opinions and concluded that appellant's symptoms were consistent so that without medications appellant would not be able to maintain reality testing and would not care for herself. Bayan also testified that appellant was not capable of following treatment recommendations if not in a structured environment. Moreover, it is undisputed that appellant's relatives and friends had been contacted and none were able to provide an alternative to institutionalization, unlike *Smith,* where relatives were never even contacted and the record did not disclose why that was so. (*Id.* at p. 910.)

Bayan's testimony and reasonable inferences drawn therefrom also support the gravely disabled finding based on appellant's inability to provide food for herself due to her mental disorder. Bayan opined that appellant's mental disorder affected her ability to provide food for herself, because she believed the food was poisoned and she would not accept food unless it was brought to her by Paul McCartney or Alan Jackson. Contrary evidence was introduced insofar as Bayan acknowledged that appellant weighed 242 pounds when admitted to the hospital and that she did not exhibit signs of not having enough food. Appellant and Blake both testified that appellant could buy and cook her own food. However, our review is based upon substantial evidence and we believe such was provided by Bayan's testimony. The LPS Act requires evidence that the person "as a result of a mental disorder, is unable *to provide for* his or her basic personal needs for

food, clothing or shelter." (§ 5008, subd. (h)(1)(A), italics added.) It does not require evidence that the person is actually undernourished or starving, although such evidence would certainly support a finding of grave disability, depending on the circumstances.

Although less compelling than the evidence regarding appellant's inability to provide for her basic need for shelter, Bayan's opinion and the basis upon which it was founded provided substantial evidence that as a result of a mental disorder, appellant was unable to provide for her basic personal need for food.

B. Appellant also argues that there must be a showing that the inability to provide for ones basic personal needs is so serious as to *present a physical danger* to the conservatee and that the grave disability must be so serious as to be "life threatening." Appellant argues that the constitutionality of the LPS Act depends upon such a finding, citing *Doe v. Gallinot* (1979) 486 F.Supp. 983, 991(*Gallinot*), affirmed 657 F.2d 1017. We believe *Gallinot* is consistent with our finding of substantial evidence. In *Gallinot,* the federal district court held that the term "gravely disabled" under the LPS Act was not unconstitutionally vague, but that because there was a significant risk of erroneous application of the standard for involuntary commitment, due process required a hearing to review probable cause for detention beyond the 72-hour emergency period of section 5150. (*Gallinot*, at pp. 991, 992-994.) In concluding that the standard was not too vague, the court recognized that "[s]tandards for commitment to mental institutions are constitutional only if they require a finding of dangerousness to others or to self. [Citations.] . . . '[*T*]*he threat of harm to oneself may be through neglect or inability to care for oneself*'. [Italics added.] [¶] California's 'gravely disabled' standard is not too vague to meet this test. It implicitly requires a finding of harm to self: an inability to provide for one's basic physical needs. It further limits the standard to an inability arising from mental disorder rather than other factors." (*Id.* at p. 991.) In reaching its conclusion, the court recognized that "[t]he standard does not expressly require a finding of dangerousness or harm. The statute even states it as an alternative to an express dangerousness standard." (*Ibid.*)

Appellant quotes from *Smith, supra,* 187 Cal.App.3d 903, where the court pointed out that despite Smith's "admittedly bizarre behavior, [she] is not, nor has she been, incapacitated or unable to carry out the transactions necessary to her survival. No evidence was adduced to show that [she], because of her mental condition, was suffering from malnutrition, overexposure, or any other sign of poor health or neglect. Her refusal to seek shelter is not life threatening. There was uncontradicted evidence that she accepts offers of food and money from friends and relatives." (*Id.* at p. 910.) We have previously distinguished *Smith* on its facts. Unlike the expert in *Smith,* Bayan testified here that appellant *was* unable to provide for her basic personal needs for food and shelter and that she presented a danger to herself. To the extent *Smith* may be read as requiring evidence of actual malnutrition, overexposure, or other sign of serious poor health or neglect, we refuse to follow it. Clearly the evidence here was sufficient to support a finding that appellant was physically at risk due to her inability to care for herself as defined in the statute, due to her mental disorder. It is specious to contend in this context that a person can be unable to provide for the necessities of life and not present a danger to herself. That degree of mental disorder places the person's health and her life seriously at risk.

C. Appellant next contends that the court erred by failing to instruct the jury that the physical danger presented must be due to appellant's lack of volitional capacity to control her behavior and that there was no evidence supporting that "element." No case cited by appellant or of which we are aware requires the court to so instruct the jury. Appellant further contends that the evidence would have been insufficient to support such a finding. Appellant has waived any claim of instructional error by failing to raise it below. In any event, the claim is without merit.

Appellant relies upon *In re Howard N.* (2005) 35 Cal.4th 117, for the proposition that the LPS Act is unconstitutional unless interpreted to include a requirement that the person lacks the capacity to control the dangerous behavior. *In re Howard N.* held that due process requires that a different statute authorizing indefinite involuntary civil commitments for *criminal* youths include proof of the person's inability to control

dangerous behavior. (*Id*. at pp. 131-132.) *In re Howard N.* did not address the LPS Act and the issue was never raised in the trial court.

Appellant does not point to any place in the record where she raised this issue or sought such an instruction. It is well established that "[u]nder California law, a defendant's failure to object in the trial court, even to errors of constitutional dimension, may lead to forfeiture of [her] claim of error on appeal." (*People v. Esquibel* (2008) 166 Cal.App.4th 539, 556.) Appellant's constitutional challenge to the LPS Act is forfeited on appeal because she failed to raise it in the trial court. (See *People v. Barnum* (2003) 29 Cal.4th 1210, 1224-1225, fn. 2 [forfeiture of Fifth Amendment claim of self-incrimination].) The trial court here gave correct instructions as to the requirements for a finding that appellant was gravely disabled under the statute. "A party may not complain on appeal that an instruction correct in law and responsive to the evidence was too general or incomplete unless the party has requested appropriate clarifying or amplifying language." (*People v. Lang* (1989) 49 Cal.3d 991, 1024.)

Were we to conclude appellant had not waived the issue, we would find it meritless. *In re Howard N., supra*, 35 Cal.4th 117, concerns the detention of a youth under a statute permitting civil commitment of a person whose release "would be physically dangerous to the public because of the person's mental or physical deficiency, disorder, or abnormality." (§ 1800.) The purposes and requirements of that statute and the LPS Act are not the same. A section 1800 commitment is intended to protect the public from the detained person. A conservatorship under the LPS Act is intended to protect the conservatee from the his or her own illness. The two statutes are subject to different constitutional requirements. *In re Howard N.* does not suggest that the constitutional requirement of difficulty in controlling conduct extends to persons committed under the LPS Act, and we are not persuaded that such an extension is warranted.

III. Substantial Evidence Supports Imposing Special Disabilities

The trial court granted the conservator numerous powers, including the power to place appellant without her consent for psychiatric treatment and to order routine medical

treatment unrelated to the disability for which she was conserved. The court also imposed "special disabilities" under the LPS Act, and denied her the privilege of possessing a license to operate a motor vehicle, the right to enter into contracts, and the right to possess any firearm or other deadly weapon. (§§ 5357, 5358.)[3] The court did

[3] Section 5357 provides: "All conservators of the estate shall have the general powers specified in Chapter 6 (commencing with Section 2400) of Part 4 of Division 4 of the Probate Code and shall have the additional powers specified in Article 11 (commencing with Section 2590) of Chapter 6 of Part 4 of Division 4 of the Probate Code as the court may designate. The report shall set forth which, if any, of the additional powers it recommends. The report shall also recommend for or against the imposition of each of the following disabilities on the proposed conservatee:

(a) The privilege of possessing a license to operate a motor vehicle. If the report recommends against this right and if the court follows the recommendation, the agency providing conservatorship investigation shall, upon the appointment of the conservator, so notify the Department of Motor Vehicles.

"(b) The right to enter into contracts. The officer may recommend against the person having the right to enter specified types of transactions or transactions in excess of specified money amounts.

"(c) The disqualification of the person from voting pursuant to Section 2208 of the Elections Code.

"(d) The right to refuse or consent to treatment related specifically to the conservatee's being gravely disabled. The conservatee shall retain all rights specified in Section 5325.

"(e) The right to refuse or consent to routine medical treatment unrelated to remedying or preventing the recurrence of the conservatee's being gravely disabled. The court shall make a specific determination regarding imposition of this disability.

"(f) The disqualification of the person from possessing a firearm pursuant to subdivision (e) of Section 8103."

Section 5358 provides in relevant part:

"(b) A conservator shall also have the right, *if specified in the court order*, to require his or her conservatee to receive treatment related specifically to remedying or preventing the recurrence of the conservatee's being gravely disabled, or to require his or her conservatee to receive routine medical treatment unrelated to remedying or preventing the recurrence of the conservatee's being gravely disabled. Except in emergency cases in which the conservatee faces loss of life or serious bodily injury, no surgery shall be performed upon the conservatee without the conservatee's prior consent or a court order obtained pursuant to Section 5358.2 specifically authorizing that surgery." (Italics added.)

not restrict appellant's right to vote.[4] Appellant contends that the trial court's imposition of special disabilities on her driving privileges, her right to enter into contracts, her right to possess firearms, and her right to withhold consent to medical treatment was unsupported by substantial evidence.

Section 5005 of the LPS Act specifically provides: "Unless specifically stated, a person complained against in any petition or proceeding initiated by virtue of the provisions of this part shall not forfeit any legal right or suffer legal disability by reason of the provisions of this part." That appellant is gravely disabled does not by itself satisfy the evidentiary requirements for the imposition of special disabilities under section 5357. (*Conservatorship of Alfred W., supra,* 206 Cal.App.3d 1572, 1578; *Conservatorship of George H.* (2008) 169 Cal.App.4th 157, 165 (*George H.*).) " '[The] mere status of conservatee does not, ipso facto, establish incompetence' [citation] [and] the imposition of a conservatorship without a finding of incompetency does not deprive the conservatee of the capacity to contract [citation] . . . ." (*George H.*, at p. 165.) Moreover, we have held that an LPS conservatee retains the right to refuse medical treatment unless the court, after making appropriate findings, specifically denies that right. (*Riese v. St. Mary's Hospital & Medical Center* (1987) 209 Cal.App.3d 1303 [conservator shall also have the right, if specified in the court order, to require his or her conservatee to receive treatment related specifically to remedying or preventing the recurrence of the conservatee's being gravely disabled].) " 'The court must separately determine the duties and powers of the conservator, the disabilities imposed on the conservatee, and the level of placement appropriate for the conservatee. (§§ 5357, 5358.) The party seeking conservatorship has the burden of producing evidence to support the disabilities sought, the placement, and the powers of the conservator, and the conservatee may produce evidence in rebuttal.' [Citation.]" (*George H., supra,* 169 Cal.App.4th at p. 165.)

[4] The court's grant of powers to the conservator and its imposition of disabilities was consistent with the pretrial recommendations of the Public Guardian in its "Conservatorship Investigation Report."

As did the appellate court in *George H., supra,* 169 Cal.App.4th 157, we reject the implication "that a specific, on-the-record statement of the reasons for each order is required. We see no such legal requirement. Instead, we follow the usual rules on appeal [citation] and 'presume in favor of the judgment every finding of fact necessary to support it warranted by the evidence' [citation]." (*Id.* at p. 165.)

It may be true that "[t]he better practice is for the conservator to disclose, by the questions asked or the argument made, the evidence relied upon to support special disabilities under section 5357." (*Conservatorship of Alfred W., supra,* 206 Cal.App.3d at p. 1578.) However, as concluded by the court in *George H., supra,* 169 Cal.App.4th at page 166, we believe there are no grounds for reversal here, where the trial court properly specified each of the powers and disabilities it imposed and where substantial evidence supported imposition of each of the disabilities and the grant of each of the powers to the conservator.

The Public Guardian presented ample evidence that appellant suffered from a mental disorder, making medication necessary. Bayan's testimony and appellant's own testimony made it clear that medication was required to contain appellant's symptoms, that appellant did not acknowledge the extent of her mental disorder, that appellant refused to take her medication unless compelled to do so, that she was *not capable* of following treatment and treatment recommendations, that she was consistently noncompliant with treatment, and that she was not able to accept treatment voluntarily at this time.

This evidence, together with the evidence that appellant suffered grandiose delusional beliefs, intrusive auditory hallucinations, extreme agitation and severe psychosis when not taking her medications, provided substantial evidence supporting the court's order providing power to the conservator to make decisions regarding medication for appellant. This evidence and the evidence concerning appellant's behavior during incidents where she threw burning items from the window, imbedded sickles in her walls, damaged her window sills with a hammer, became extremely agitated and threatening to others at the board and care facility, and attacked a hospital worker, all support the

court's imposition of the disabilities on appellant's driving privileges and upon her right to possess firearms or other deadly weapons. Appellant's comment that it was better to sickle the wall than to hurt someone else also supports the imposition of the driving and weapons possession disabilities.

Evidence regarding the nature of her grandiose delusional beliefs and auditory hallucinations—including, but not limited to her belief that she had millions of dollars, but was unable to locate the post office box containing the money—and Dr. Bayan's testimony that appellant's delusions affected her ability to manage money as a result of her fear that people are after her or against her, provide substantial evidence supporting the disability preventing her from entering into contracts.

DISPOSITION

The judgment is affirmed.

_____
Kline, P.J.

We concur:

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Haerle, J.

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Lambden, J.